IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1903 of 2001
to
FIRST APPEAL No 1918 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPECIAL LAND ACQUISITION OFFICER

Versus

CHIMANBHAI NARBHAI CHAUHAN

Appearance:

MS RV ACHARYA AGP for Appellant No.1 (Special Land Acquisition Officer, Narmada Project, Unit No.1, Vadodara)

MS SEJAL K. MANDAVIYA for Appellant No.2 (Executive Engineer, Narmada Project Main Canan, Construction Dvn No.5, Vadodara)

MR KM SHETH for Respondent - claimants.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 01/05/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. This group of 16 first Appeals preferred by the Special Land Acquisition Officer, Narmada Project Unit No.1, Vadodara and the Executive Engineer, Narmada Project Main Canal, Construction Dvn. No.5, Vadodara under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908 is directed against the judgment and award dated 10.12.1999 passed by the 3rd Joint Civil Judge (Senior Division), Vadodara in Land Acquisition Reference Cases No.7/91 to 22/91.

2. The lands of Village Hansapura, Taluka Waghodia, District Vadodara were sought to be acquired for the construction of Narmada Canal. For this purpose, the notification under Section 4 was issued on 13.9.1984 and the notification under Section 6 was issued on 16.2.1987. The award was passed on 26.1.1988 by the Land Acquisition Officer and determined the rate of compensation as Re.1/- per sq. mtr. The claimants took the matter for Reference under Section 18 claiming compensation Rs.20/- per sq. mtr. However, the Reference Court granted compensation @ Rs.13/- per sq. mtr. in addition to the rate fixed by the Land Acquisition Officer making the compensation payable @ Rs.14/- per sq. mtr vide his award dated 10.12.1999. It is this common judgment and order dated 10.12.1999 which is the subject-matter of challenge in this group of appeals.

3. So far as the rate at which the compensation is payable is concerned, the learned Assistant Government Pleader has invited the attention of this Court to the decision of this Court rendered on 6.5.1997 in First Appeals No.2881 to 2891 of 1995 with regard to the adjoining village Kanjari in which the rate of

compensation of Rs.14/- per sq. mtr. as granted by the Reference Court was reduced by this Court to that of Rs.11/- per sq. mtr., while the date of issue of notification under Section 4 in those cases was 13.7.1984. In this view of the matter, Mr.Sheth does not contest if the rate of compensation is reduced to that of Rs.11/- per sq. mtr. from that of Rs.14/- per sq. mtr. in the present cases.

4. It is pointed out that, in the impugned award, the Reference Court has also granted the relief of interest @ 10% per annum under Section 23 (2) of the Act. Ms.Acharya, learned AGP, submitted that there is no

question of granting of such interest because 12% rise under Section 23 (1-A) has already been granted. Even this position is not contested by Mr.Sheth. Further, in the operative part of the impugned order, the Reference Court has also ordered entitlement of the claimants to get interest @ 30% as solatium. This also is wrong because there is no question of interest @ 30% on solatium. The entitlement is only for solatium.

5. Accordingly, all these appeals are partly allowed and the impugned award shall stand modified so as to make the rate of compensation as Rs.11/- per sq. mtr. in all instead of Rs.14/- per sq. mtr. in all. The claimants shall not be entitled to get 10% interest under Section 23 (2) and they would not be entitled to get interest 30% as solatium. The claimants shall be entitled to additional compensation @ 12% p.a. and 30% of the market value of the land in accordance with the provisions of sub-sections (1-A) and (2) of Section 23 of the Act. The impugned award shall stand modified as indicated above. Decree to be drawn accordingly. In the facts and circumstances, there shall be no order as to costs.

6. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities by either of the parties.

Sd/-
(M.R.Calla, J)

Sd/-
01.5.2001 (D.H.Waghela, J.)
(KMG Thilake)